IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 18116 of 2003

Between:

C. Malli Reddy, s/o Rami Reddy, Aged 52 years,
Agriculture, R/o Bommireddipalli Village,

H/o Jogonnapet, Nallacheruvu Mandal,
Anantapur District.

..... PETITIONER

AND

1 The District Collector, Anantapur, Anantapur District.
2 Mandal Revenue Officer, Nallacheruvu Mandal, Anantapur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, preferably one in the nature of Writ of Mandamus, declaring the impugned proceedings of the 1st respondent in his D.Dis.No.7275/2002-D2, dated 2-12-2002 ordering closure of the petitioner's bore well situated in the lands in Sy.No.225/3 Bommireddypalli Village, H/o Jogannapet, Nallacheruvu Mandal, Anantapur District, as arbitrary, illegal, one without jurisdiction and violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents herein not to interfere with the petitioner's right to use the said Bore well for drawing water to his lands.

Counsel for the Petitioner: MR.M.PRASADA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioner is a resident of Bommireddipalli village, H/o Jogannapet of Nallacheruvu Mandal in Ananthapur District. He allegedly owns an extent of Ac.0.11 cents in Survey No.225/3 of the said village. The petitioner dug a bore well some time in 1997. He is aggrieved by the proceedings of the first respondent dated 2.12.2002 whereby and whereunder the first respondent ordered for closure of the bore well of the petitioner and another belonging to one V. Gangireddy, directed the second respondent to take necessary action duly following the procedure. The said order came to be passed on a report submitted by the second respondent vide his letter dated 28.11.2002. This Court while admitting the writ petition on 28.8.2003 passed interim orders suspending the operation of the impugned order in view of the interim orders passed in connected matter in W.P. No.32310 of 2002. The first respondent has now come forward with an application being WVMP No.2716 of 2004 praying this Court to vacate the interim order. Having regard to the counter affidavit, the writ petition is being disposed of at the Interlocutory stage itself with the consent of the learned Counsel for the petitioner and learned Assistant Government Pleader for Revenue (General).

In the counter affidavit, it is stated that the writ petition is premature as the same is filed even before the Mandal Revenue Officer would take necessary action under the provisions of A.P. Water, Land and Trees Act, 2002 ('the Act' for brevity). Though the learned Counsel for the petitioner strenuously contends that the impugned order is not preceded by notice and that there was no expert opinion as required under Section 11 of the Act before the District Authority, namely, the first respondent herein, passed the impugned order and therefore it is bad, this Court is not impressed with the same. As rightly pointed out by the learned Assistant Government Pleader, the Mandal Revenue Officer was directed to follow the due procedure of law. As and when the Mandal Revenue Officer issues notice for closure of the bore well under Section 15 of the Act, the petitioner may raise all the defences, which shall be considered by the Mandal Revenue Officer. Till appropriate order is passed, needless to point out that it shall be open to the petitioner to use the bore well without causing any inconvenience to the villagers.

The writ petition, with the above observations and directions, is disposed of.

September 20, 2004. **V.V.S. RAO, J**

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To

1. The District Collector, Anantapur, Anantapur District.
2. The Mandal Revenue Officer, Nallacheruvu Mandal,

Anantapur District.

3. 2CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad. (O.U.T)

4. 2CD copies.